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From:

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To:

Cc:

Subject: RE: Excise Tire Question

Further to our discussion this morning, the tax imposed under §§ 4071-4073 of the Code and the Treasury Regulations there under (§ 48.4071-1 through § 48.4073-4) on taxable tires sold by the manufacturer or importer, is not imposed on a Puerto Rican company which imports tires into Puerto Rico.

Section 4071(a) of the Code states that a tax is imposed on taxable tires sold by the manufacturer, producer, or importer.

Section 48.0-2(a)(4)(i) defines an "importer" of a taxable item as "any person who brings such an article into the United States from a source outside the United States, or who withdraws such an article from a customs bonded warehouse for sale or use in the United States."

Section 7701(a)(9) of the Code defines "United States" to mean the fifty states and the District of Columbia.

Section 7701(d) states that references to possessions of the United States in Title 26 generally shall be treated as referring to the Commonwealth of Puerto Rico.

Section 48.0-2 of the Regulations defines "exportation" as "the severance of an article from the mass of things belonging within the United States with the intention of uniting it with the mass of things belonging within some foreign country or within a possession of the United States."

The definition of "importer" for purposes of the excise tax rules governing taxable tires does not refer to Puerto Rico or to possessions of the United States. However, "United States" is defined in the Code to include only the 50 states and the District of Columbia. Accordingly, the definition of "importer" for purposes of the tire excise tax rules excludes persons who import goods into Puerto Rico.

Further, the definition of "exportation" includes the export of items from the continental United States to Puerto Rico. If a tire shipped from Georgia to Puerto Rico would be considered "exported," for purposes of the tire excise tax rules, then it would be inconsistent for a tire made in and shipped from, for example, Indonesia, to be considered to be imported into the United States when it is received in Puerto Rico.

Accordingly, a Puerto Rican company which imports tires from abroad does not meet the definition of "importer" provided in section § 48.0-2(a)(4)(i), and thus, with respect to the imported tires, is not subject to the tax imposed on the sale of taxable tires by §§ 4071-4073 of the Code and the Regulations there under.